F 864
.K53

SPEECH

OF

HON. D. P. KING, OF MASSACHUSETTS,

IN THE HOUSE OF REPRESENTATIVES, MAY 21, 1850,

In Committee of the Whole on the state of the Union, on the President's Message transmitting the Constitution of California.

Mr. KING said:

Mr. CHAIRMAN: I am not certain that I should now congratulate myself that I have been recognized by you, although, with many other members of more agility, I have been for some days practising the athletic exercise of jumping for the floor. In the uncertainty of obtaining it, I have not given myself the careful preparation befitting the attempt to speak on a subject so important. I have been a patient listener and a careful reader of the speeches which have been made here and in the other wing of the Capitol, but I have little expectation that I shall be able to add one ray to the flood of light, or to contribute a single item to the fund of information which has been accumulated. For me, there is not that excuse so frequently given for desiring to address the House, for I have made no speech which I desire to modify; I have given no vote which I wish to explain; have occupied no position which I have found it necessary to fortify or define, and I have taken no step which I wish to retrace. Nor do I attempt to awaken the echoes of this hall, that their reverberations may be heard in far off Massachusetts. I have surveyed my district, from its Atlantic shores to its western limits, and from the metropolis of the State to its northern borders, but can find no such town, hamlet, or precinct, as Buncombe. I have a most charitable, confiding, and generous constituency, who burden me with no instructions, and vex me with no remonstrances. They know that I mean faithfully to watch their interests, and fearlessly and honestly to make my record. They know that I opposed the unconstitutional admission of Texas; that I voted against the wicked Mexican war; and that I have declared on this floor my determination, that by no act of mine shall one foot of slave territory be added to this country. They expect from me a straightforward, consistent course. In the conviction that words are but the puny children of earth, and firm, resolute, determined action, the full-grown sons of heaven, I have not thought it necessary to waste precious time in idle discussion and fruitless argument. My commission is not to exasperate, not to agitate, not to labor to round a period or polish a sentence against slavery, but to act for liberty.

But gentlemen, pluming themselves on their honor and independence, have asked us of the North whether we intend to adopt the recommendations of the several Senators who have thrown the strong light of their wisdom and experience on the doubtful path through this perplexed labyrinth. They ask, whose leading we will follow. To me it appears that these gentlemen little understand the position of a free Representative of a free people. Under the wise provisions of our Constitution, the President is independent of Congress; each branch of Congress is independent of the other, and each member of Congress has his individual independence. On a question involving the rights of the people, the rights of the States and of the Territories, and the prosperity and the destinies of the country for all time, the free northern Representative will follow no leader, acknowledge no master, submit to no dictator. In my judgment, this is not a question of expediency, but of right; not a matter of fancy, or of choice, but of stern duty; not a shadowy abstraction, but a thing of body and soul and spirit. In our deference to superior wisdom, and respect for long experience, we must not forget our own responsibility. Our own conscience, though it be but a taper-light, to us steady and constant must be the lamp that guides our feet. "The distrust of our own powers will be no excuse for the neglect of our duties." We cannot disobey the promptings of our own deliberate judgment and the convictions of our own understanding. I speak but for myself. In all matters of general policy, I feel my need of the counsels of wisdom; but in a matter of principle and of conscience, as no one can share with me the responsibility, and suffer for me the penalties of a crime, I can and will permit no one to direct my course. I trust I have a becoming respect for the intellectual powers of our great men—and the age has been prolific in such—but if I were to acknowledge that I had no respect for my own judgment, I should thereby confess that I had no fitness for the station my constituents have assigned me. I cannot surrender their rights—I will not surrender my own. It may not be modest—it is painful—to differ from those who have long been trusted and who have led public opinion: *Amicus Catoni, sed magis libertati, sed maxime veritati.* The Latin may not come mended from my tongue, but to me the sentiment is full of meaning and of force.

In times of yore, in a day of venality, one honest man could promise himself that he would hold fast his integrity while meal remained at a shilling a peck. I think I know one man, now that bread is three pence per pound, and pure invigorating water may be had free as it wells up from the fountain, who, neither from dread of abuse, nor fear of opprobrium, will smother his sentiments or sacrifice his independence.

Sterne once said, that if heaven should rain mitres, none could fall which would fit his head. My head will fit no office, and I have no desire to retain or gain any, which requires the surrender of my judgment, or the violation of my convictions of duty.

Gentlemen ask us, for the sake of peace, union, and harmony, to surrender our prejudices, to forget party and section, "to despise the sickly sentimentality and the wild fanaticism of the men and women of the North," and just for this once to be magnanimous, and adopt their compromise. And what is a compromise? It means an adjustment by mutual concessions. What does the North gain by the proposed compromise?—rather, what that is good, and just, and honorable, does she not surrender? It is not compromise, but all concession. The South has heretofore asked much, and received much. It has been in the habit of demanding, and the North has not had the firmness to deny. The Romans had not been wolves if their neighbors had not been sheep, the South would not have been so exacting if the North had not encouraged them by too great facility—by a disposition too generous and accommodating.

A far greater proportion of the area of our country is now slave territory. Have we not rights too? Shall we not insist that the newly-acquired territory shall be open to free labor? Cannot we profit by your lesson, and say that the equilibrium must be restored? Teach the North!—thanks for that word. But now a little too much is demanded; the easy, confiding North is alarmed. Louisiana, Florida, and Texas, have been acquired, and you have made them all your own—they are devoted to slavery. California, New Mexico, and Utah, are yet unshackled; they must be sacred to freedom; they stretch out their hands to us, and beg that we will not bind the unwilling victims, nor drag them up to the altar of unholy sacrifice. They have spoken out in their agony, and we cannot disregard their cry to come over and help them. In the convention for framing the constitution of the State of California, composed principally of gentleman who had been residents in slaveholding States, an article prohibiting slavery was unanimously adopted. From the debates in that convention I make the following extracts:

Mr. STEWART. "Coming from a slaveholding State, I know the baneful influence of slavery upon free labor. I know it is utterly impossible to unite free and slave labor. I have tried the experiment, and I feel justified in saying that such a thing is impracticable. Let us declare to those gentlemen who are about engaging in this enterprise at home that they cannot bring their negroes here on any condition or under any pretence whatever."

Mr. SEMPLE. "I maintain that we owe it to ourselves, and our fellow-citizens at home, to show them in this constitution that their slaves are not wanted here; that they cannot be introduced into this country; that it is the determination of the people to exclude them. In God's name, let us make California a place where free white men can live. But bring negro labor in competition with them, and you will soon see the disastrous results. You degrade white labor; you place the intelligent and enterprising citizen under the control of monopolists; you deprive him of all that encourages to industry and makes labor profitable. Let us keep our institutions pure; let our progress be onward."

Mr. CLAY, in a speech delivered in the Senate on the 13th instant, says:

"With respect to the population of California, with respect to the limits of California, with respect to the circumstances under which she presents herself to Congress for admission as a State into the Union, all are favorable to granting her what she solicits, and we can find neither in the one nor in the other a sufficient motive to reject her, and to throw her back into the state of lawless confusion and disorder from which she has emerged."

I go for the admission of California, not for the sake of her golden sands, but for the sake of the right—a treasure more valuable than all the gold and silver and precious stones of which avarice in her wildest vagaries has ever dreamed. I shall vote for the admission of California, with its constitution prohibiting slavery, without qualification, without restriction, without limitation, and without delay. I will not inquire what laws the hand of the Creator has stamped on the territory of California, New Mexico, and Utah. Some of the old Puritans believed that "greater light is yet to break forth;" with them I am content to adopt the laws of God, until such time as by His providence and under His progressive light, laws can be framed better adapted to the good of His creatures. In the whole of that country, whether it be broken up into rugged and inaccessible mountains, or spread out in desert sands; whether capped with eternal snow, or vital in green fields and fertile valleys,—as far as my influence and my vote can go, that soil shall be free soil, and the men and the women, whatever complexion an Indian or an African sun may have burned upon them, shall tread that soil erect and unshackled, and as free as the flight of "the bird of broad and rapid wing, whose home is high in heaven."

Gentlemen say slavery cannot exist in the new territories. Why, then, object to its exclusion by law? It is said the proviso is an idle abstraction, opposed on the part of the South from a motive of pride, insisted on by the North as a matter of sentiment. We assure you that we do not wish to offend your too nice sense of honor; you as readily assure us that you can pity, if not respect and forgive our sentimentality. It is not a point of honor or of sentiment, but a matter of substance and moment—we contend not for the triumph, but for the right. When the people shall, in the power of their might, declare that there shall be no more slave territory, they will have extinguished that insatiable lust of acquisition which now covets Cuba for a tobacco patch, Mexico and Central America for a potato field, South America for a pasture for war steeds, the Sandwich Islands for a flower garden, the Antarctic regions for an ice cellar, St. Helena for a cemetery, and the rest of the world for a hunting-ground.

We hear much about the compromises of the Constitution, and the intent and meaning of the Convention which framed, and of the people who adopted it. To me it appears evident that their object was "to establish justice and secure the blessings of liberty to themselves and their posterity." They restricted the slave trade to the year 1808; they excluded slavery from all territory then within their control; they did not suffer the fair parchment on which their Constitution was written to be blotted with the name of slavery; and it might have been with them a probable conjecture and a cherished hope, that in this age men must refer to learned books of synonyms for the definition of the word slavery, and to musty and forgotten tomes of history for an idea of its character and condition.

There has been much unnecessary disputation

about the authorship of the celebrated proviso by which slavery is excluded from the territory northwest of the Ohio. I say unnecessary, because fortunately the facts are so readily and satisfactorily obtained from authentic history. On the 1st of March, 1784, Virginia ceded to the United States all her right to that territory. What were her rights I will not stop to consider. New York, Connecticut, and Massachusetts, claimed parts of the same territory, and Virginia was careful not to give a deed of warranty. It all came under the undisputed sovereignty and possession of the United States; and to provide for its government, Mr. Jefferson, in behalf of a committee consisting of himself, Mr. Howell of Rhode Island, and Mr. Chase of Maryland, reported to Congress certain resolutions, and among them—

"That after the year 1800 of the Christian era, there shall be neither slavery nor involuntary servitude in any of the said States, otherwise than in the punishment of crimes whereof the party shall have been duly convicted to have been personally guilty."

Of the twenty-three delegates who were in attendance, sixteen voted for and seven against the resolution; but it was not adopted, because the Articles of Confederation required the assent of a majority of all the States. The resolutions reported by Mr. Jefferson, with this exception, became, April 23, 1784, the law of the land. In 1785, Mr. Rufus King, a delegate from Massachusetts, proposed the following resolution:

"That there shall be neither slavery nor involuntary servitude in any of the States described in the resolves of Congress of the 23d April, 1784, otherwise than in the punishment of crimes whereof the party shall have been personally guilty; and that this regulation shall be an article of compact, and remain a fundamental principle of the thirteen original States, and each of the States described in the said resolve of the 23d April, 1784."

This resolution was referred to a committee by the affirmative votes of New Hampshire, Massachusetts, Connecticut, Rhode Island, New York, New Jersey, Pennsylvania, and Maryland; Virginia, South Carolina, North Carolina, and Georgia, voting in the negative.

There seems to have been no further action on this subject till July 11th, 1787, when a committee, consisting of Colonel Carrington, of Virginia, Mr. Dane, of Massachusetts, Mr. R. H. Lee, of Virginia, Mr. Kean, of South Carolina, and Mr. Smith, of New York, reported an entire set of resolutions for the government of the Northwest Territory. Pioneers from the east had discovered how propitious were the soil and climate of that fertile region, and were desirous of finding there an abiding place for themselves and their posterity: and Congress felt that more particular and specific laws had become necessary for the teeming West.

Colonel Carrington was a soldier, skilled in marshaling a phalanx and drawing out a regiment; Mr. Dane was a practised lawyer and a learned civilian, fit to draw a code for an empire: on him devolved the duty of preparing the ordinance; but Colonel Carrington, as chairman, formally reported the first five sections. To Nathan Dane, and to him alone, belongs the honor of drafting and proposing as an amendment the section which provides that "there shall be neither slavery nor involuntary servitude in said territory, otherwise than in the punishment of crimes whereof the party shall have been duly convicted." In honesty and truth, I must add the following:

"*Provided always*, That any person escaping into the same, from whom labor or service is lawfully claimed in any one of the original States, such fugitive may be lawfully reclaimed and conveyed to the person claiming his or her labor or service, as aforesaid."

This ordinance was adopted by the concurrent votes of all the States and all the delegates with the single exception of Mr. Yates, of New York; and thus was slavery immediately and forever excluded from that redeemed and favored land.

Mr. Jefferson was then in France, as Minister at the Court St. Dennis, and could have had no agency in procuring the passage of the ordinance, although it is true, that in 1784 he supported a proviso prohibiting slavery in the territory after the year 1800, the other two delegates from Virginia voting against it.

Massachusetts was represented in the Congress of 1787 by two members only, Nathan Dane, of Beverly, and Samuel Holten, of Danvers. I have had the honor and satisfaction to know both these men; they lived to a good old age in my own district, and their honored dust now sleeps beneath its green sod. I will not say that it is, in party parlance, "free soil," but it is, in the widest sense, freedom's soil; and the representative from that district, who is not true to liberty, misrepresents his people, is forgetful of the whole history of the past, and madly reckless of the future; he might expect the execrations of the living in his daily walks, and the reproaches of the honest ghosts of his patriot predecessors would haunt his troubled dreams. Such apparitions murder no innocent sleep. This treason shall not sit heavy on my conscience.

I do not say that Nathan Dane was the first to conceive the idea of the exclusion of slavery; but I do say that he was the first to apply the invention to practical use, and a court of justice would award to him letters patent—but he did not want, and we do not intend, to restrict the use of his invention—we would apply it to all territory now free, as he and his compatriots meant the principle should be applied to all States and all Territories thereafter to be admitted into the Union.

I claim for Nathan Dane the paternity of the proviso, and for Massachusetts, a consistent and uniform opposition to the extension of slavery. With us it is no new light, no sudden furor, no sickly fanaticism, but a deep, settled, firm conviction, and a principle not to be impaired or eradicated. The voice of the people proclaims it, and the resolves of their legislature iterate and reiterate it in tones of deep and unmistakable solemnity.*

**Resolves concerning Slavery.*

Whereas, The people of Massachusetts, acting under a solemn sense of duty, have deliberately and repeatedly avowed their purpose to resist the extention of slavery into the national territories or the admission of new slave States into the Union, and, for these ends, to apply, in every practicable mode, the principles of the ordinance of 1787; also to seek the abolition of slavery and the slave trade in the District of Columbia, and the withdrawal of the power and influence of the General Government from the support of slavery, so far as the same may be constitutionally done; and whereas the important questions now before the country, make it desirable that these convictions should be reaffirmed, therefore,

Resolved, That the people of Massachusetts earnestly insist upon the application by Congress of the ordinance of 1787, with all possible sanctions and securities of law, to the territorial possessions of the Union in all parts of the Continent, and for all coming time.

Resolved, That the people of Massachusetts cherish the Union with unabated attachment; that they will support the

Gentlemen from the South have told us that they know this sentiment of opposition to the extension of slavery prevails; and it is true, it is the voice of the pulpit, of the press, of the halls of legislation, and of the popular assembly; and the representatives of the people have no choice, I trust they have no wish, but to obey the voice of the people, which in this instance, at least, is the voice of a Divinity.

And this is now public opinion in Massachusetts. Who made this public opinion? Not the so-called "miserable, despised fanatics," surely, but the men whose remarks the people take for wisdom, whose statements are demonstration, whose assertions are like the response of an ancient oracle; these "words fitly spoken" have been to us like "apples of gold set in pictures of silver;" they are written down in our books, taught to our children, deep rooted in our memory; they cannot be eradicated. We have been taught to believe and feel, that slavery must not be extended; the sentiment cannot be checked, hardly controlled; it rolls down our mountain sides, it flows over our plains, it pervades our cities—but it brings no madness nor desolation in its path; our men are resolute men, they will maintain their rights; they are honest men, they will yield to others their rights.

And, Mr. Chairman, this abhorence of slavery is no new sentiment with the people and legislature of Massachusetts. They were the first to abolish slavery by practical emancipation, by the decision of their courts, and by statute enactments.

"Dr. Belknap, in his account of the decrease of slavery in 'Massachusetts, says: 'At the beginning of our controversy 'with Great Britain, several persons, who before had entertained sentiments opposed to the slavery of the blacks, did 'then take occasion publicly to remonstrate against the 'inconsistency of contending for our own liberty, and at 'the same time depriving other people of theirs.'"

With singular inconsistency, it is charged upon Massachusetts by several gentlemen, that her hostility to slavery commenced when it ceased to be profitable, and in the same hour it is declared that we are warring against our true interests, because slave labor and slave products contribute so largely to our wealth. Gentlemen, be a little charitable, if you cannot afford to be just. In calling us in the same breath knaves and fools, do not you forget your self-respect?

But, to obtain justice to Massachusetts and her old policy, I must take an appeal from the excited and angry passions of our fellow-citizens of the South, to the sober judgment of a foreigner, Grahame, who, in his History of the United States, says:

"Among other subjects of dispute with the British Government and its officers, was one more creditable to Massachusetts than even her magnanimous concern for the liberty of her citizens and their fellow colonists. Negro slavery still subsisted in every one of the American provinces; and the unhappy victims of this yoke were rapidly multiplied by the progressive extension of the slave trade. * * * But the recent discussions with regard to liberty and the rights of human nature were calculated to awaken in generous minds a juster impression of negro slavery; and during the latter part of Governor Bernard's administration, a bill prohibitory of all traffic in negroes was passed by the Massachusetts Assembly. Bernard, however, in conformity with his instructions from the Crown, refused to affirm this law; and thus opposed himself to the virtue as well as to the liberty of the people whom he governed. On three subsequent occasions laws abolishing the slave trade were passed by the same Assembly during Hutchinson's administration; but all were in like manner negatived by the governor. And yet it was at this very period, when Britain permitted her merchants annually to make slaves of more than fifty thousand men, and refused to permit her colonists to decline a participation in this injustice, that her orators, poets, and statesmen loudly celebrated the generosity of English virtue in suffering no slaves to exist on English ground, and the transcendent equity of her judicial tribunals in liberating one negro who had been carried there. Though Massachusetts was thus prevented from abolishing the slave trade, the relative discussions that took place were by no means unproductive of good. A great amelioration became visible in the condition of all the negroes in the province; and most of the proprietors gave liberty to their slaves. This *just* action—for such, and such only, it deserves to be termed—has obtained hitherto scarcely any notice from mankind; while the subsequent and similar conduct of the Quakers in Pennsylvania has been celebrated with warm and general encomium. So capricious is the distribution of fame: and so much advantage does the reputation of virtue derive from alliance with sectarian spirit and interest."

It was such laws passed by the Massachusetts Legislature and vetoed by George III., that Mr. Jefferson referred to in his original draft of the Declaration of Independence.

"He has waged cruel war against human nature itself, violating the most sacred rights of life and liberty in the persons of a distant people who never offended him, captivating and carrying them into slavery in another hemisphere; or to incur a miserable death in their transportation thither. This piratical warfare, the opprobrium of infidel powers, is the warfare of the christian king of Great Britain. Determined to keep open a market where men should be bought and sold, he has prostituted his negative for suppressing every legislative attempt to prohibit or restrain this execrable commerce."

South Carolina and Georgia did not concur in this sentiment, and it was omitted in the Declaration; but the inconsistency of holding in bondage creatures of a common Father, made in his image, after all men had been solemnly declared free and equal, was felt and acknowledged. This sentence, however, stands in the Declaration, in spite of a too delicate sensibility: "He has refused his assent to laws the most wholesome and necessary for the public good."

I forbear to speak of the efforts of Rufus King, another bright star of Massachusetts, to secure the blessing of liberty and free government for the West, and leave to the gentleman from the Empire State, or the gentleman from New Jer-

---

Constitution; that, appreciating the inestimable benefits flowing from it, they believe it better for all parties and sections, with reference to any existing evils, to wait and work patiently under and through the Constitution, than to destroy it; and they have no doubt that they hold these sentiments in common with overwhelming majorities of the people of these United States; but, in any event, they will follow their principles, deterred by no threats of disunion, and no fear of consequences.

Resolved, That the integrity and permanence of American power on the Pacific ocean, the increase of our commerce and wealth, the extension of our institutions, and the cause of human freedom on this Continent, require the immediate admission of California into this Union, with her present constitution, without reference to any other question, or measure, whatever.

Resolved, That the sentiments of the people of Massachusetts, as expressed in their legal enactments, in relation to the delivering up of fugitive slaves, remains unchanged; and inasmuch as the legislation necessary to give effect to the clause of the Constitution relative to this subject is within the exclusive jurisdiction of Congress, we hold it to be the duty of that body to pass such laws only, in regard thereto, as will be sustained by the public sentiment of the free States, where such laws are to be enforced, and which shall especially secure to all persons whose surrender may be claimed as having escaped from labor and service in other States, the right of having the validity of such claim determined by a jury in the State where such claim is made.

Resolved, That the people of Massachusetts in the maintenance of these their well-known and invincible principles, except that all their officers and representatives will adhere to them at all times, on all occasions, and under all circumstances.

Approved *May* 2, 1850.

sey, the grateful duty of commemorating the service of a much-honored father. I know that the work can be better performed by either of them, and I trust no feeling of too nice delicacy will deter them from doing justice to a subject so interesting.

Sir, I will not be so presumptuous as to suppose that any poor words of mine can add to the fame of Nathan Dane; it needs no empty flourish. Even if Webster, in tones of surpassing beauty, power, and eloquence, had not made his name the running-title of the brightest pages in the classics of our country and of the age, the virtues, labors, and wisdom, of Dane would have inscribed themselves on imperishable tablets.* Nathan Dane died childless, but generations who have enjoyed and shall enjoy the fruits of his wisdom and benevolence will cherish his fame and bless his memory. He was the author of the Abridgment of the American Laws, and he founded the Law College in Cambridge University, of which Joseph Story was the first professor. At one time, students were congregated at that school from every State in the Union. I hope the lessons there learned in statute law, common law, the law of nations, and especially the law of humanity, will never be forgotten. He was a munificent benefactor to that College; but his greatest and best gift was the Dane proviso, by which a well-regulated government was given to the Northwestern Territory. May no man who has enjoyed any of his benefactions, law, literature, liberty, ever say

"Timeo Danaos et dona ferentes,"

In former times and in modern times a grateful people have raised statues and built monuments in honor of public benefactors. I will not invite the men of the West to sculpture marble or pile masonry to the memory of Nathan Dane. The prosperity, the wealth, the intelligence, the free institutions of that happy land, are raising that monument. It has reached almost to its completion. It remains for the Representatives of Ohio, Indiana, Illinois, Michigan, Wisconsin, and Iowa, to place the cap-stone with due solemnities; and Whigs, Democrats, and Free-Soilers, by one united effort for freedom, you can raise that stone and crown yourselves with wreaths of unfading honor, and gild Dane's monument with imperishable glory.

I have not alluded to the more recent dispute about the modern application of the Dane proviso. I care not so much whether it be called the Winthrop, the Wilmot, or the Brinkerhoff; whether the thunder comes from the right hand or from the left, it is an omen of good; nay, it is an absolute good if it dispels noxious vapors, and clears the air so that men, all men, may breathe freer. No matter who is the cloud-compeller—whether Whig, Democrat, or Free-Soiler—he shall be welcome, and have my support in all reasonable and honest means for securing the liberties and maintaining the prosperity of the country.

Gentlemen of the South complain of outrages and aggressions on the part of the North; "but the great and primary cause of complaint," in the words of a renowned southerner, a star which has now left its sphere, "is to be found in the fact that the equilibrium between the two sections in the Government, as it stood when the Constitution was ratified, and the Government put in action, has been destroyed." You demand that equality should be restored and maintained. As well might you ask that the laws of nature should be suspended; as well might you demand of us that a parching sun shall not dry up your rivulets, and wither the verdure of your fields. Our fair tree of liberty, planted by rivers of living water, and nourished by the influences of heaven, strikes deeper its roots, and spreads wider its branches. It is clothed with those leaves which are for the healing of the nations. Spare that tree! It must not be lopped nor mutilated. If the pride of your forest is torn by a tornado, or scathed by lightning, our tree must not therefore be shorn of its fair proportions. With us, persons, as well as property, are protected by law; and honest, contented, happy labor everywhere looks up and smiles, with the sure prospect of an adequate reward. For this reason, in spite of a sterile soil, and a climate almost inhospitable, our population increases, and with it come a moderate competency and general comfort. It is not the result of any national legislation; for you admit that for fifty, out of sixty years, the South has controlled the country. You have imposed embargoes and other restrictions on commerce; you have made and repealed tariffs; and you have created and destroyed banks, as suited your wisdom or your caprice; and we have prospered, although the truth compels me to say that labor is now greatly depressed, almost prostrated, under the operation of your last, great experiment.

The provision of the Constitution which determines the apportionment of Representatives and direct taxes was a financial arrangement. It may be true that some of the States would not have consented to come into the Union unless such consideration was given to their property, but at that time a heavy national debt was to be provided for, and the Treasury was bankrupt; with the advantage to the South of her three-fifths representation came the almost certain burden of constant taxes. And it may be seriously questioned whether we of the North have not a right to insist that taxation and representation, so long severed, shall now be coupled, and that legislation shall be so modified in regard to new Territories and new States hereafter to be admitted. In reference to their slave representation, it is no compromise but a concession; it is giving them representation without taxation, a boon without an equivalent. The South contend for the right of carrying their property (persons held to labor) into the newly-acquired territories, but it does not follow that the right of representation should accompany that property. The original agreement must stand, hard as it bears upon us; but I see no necessity and no justice in extending it to other parties.

At the time of the adoption of the Constitution, slavery was considered "the curse of Heaven on the States where it prevailed"—it was supposed that the number of slaves was diminishing, and it was confidently hoped that the anomaly of a people of equal rights being controlled by an aristocracy of property would soon cease. Would it be a new "outrage and aggression" on the part of the North, if they should respectfully ask, that in the admission of new States the representation in this House should be determined by their respect

* See WEBSTER'S speech on FOOT'S resolution.

ive numbers of free citizens? and that whenever a direct tax shall be apportioned among the States, and paid by said States, then, as taxation and representation are to go together by the provision of the Constitution, their respective numbers may be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three-fifths of all other persons? It is a matter well worth the consideration of our friends who think that the Constitution needs amendment, and the Government requires a new equipoise.

I abhor sectional jealousy and strife; may ruin seize on every combination for disunion—"confusion on its banners wait." But in order to maintain domestic tranquillity and preserve the Union, the forbearance, compromise, and concession must be mutual. All the provisions of the Constitution must be respected; our citizens must be as free in southern ports as yours are in northern. Give us an equilibrium, and let it be firmly based on truth, and right, and justice. Then will our country become the abode of lasting peace and the admiration of the nations.

The people are too brave to be conquered by any foreign foe. Only themselves can destroy their liberties. Our country is so strong, the Union so well balanced and guarded, that no violence and no heat but that of internal fires can make an explosion that shall scatter it into fragments; woe to the hand that strikes the spark or fans the flame.

If the Constitution and the Government had been always rightly understood and administered, we should not now be annoyed with the din of civil strife, nor threatened with disunion. If the principles and the wise maxims of the fathers had been maintained, no question would have been started at this day and on this floor whether the Government be a despotism, an aristocracy, or a democracy. I have admired the nice distinction of Dr. Kirkland in his life of Fisher Ames:

"A Republic is that structure of an elective government in which the Administration necessarily prescribes to themselves the general good as the object of all their measures; a Democracy is that in which the present popular passions, independent of the public good, become a guide to the rulers. In the first, the reason and interests of the society govern: in the second their prejudices and passions. Then it is that men, not laws, govern. Then the government is a despotism beyond rule, not a Republic confined to rule. It is strong, but its strength is of a terrible sort,—strong to oppress, not to protect: not strong to maintain liberty, property, and right, it cannot secure justice, nor make innocence safe."

Of Mr. Ames, Dr. Kirkland says: "Fortunately for him, he did not need the regrets of folly to make him wise, nor the remorse of guilt to make him virtuous." How fortunate would it have been for our country, if the admission of Texas and the Mexican war had not made it suffer the bitter experience of the regrets of folly and the remorse of guilt—the serpent would not have tempted us with this apple of discord.

The President, I think, desires to administer the Government in its simplest republican form. He is charged by the eloquent Representative of one of the districts in Virginia, which has resolved that it will *not* be represented in the Southern Convention, with interference and usurpation in the formation of a State government by the people of California. He thinks Congress ought at once to remand California to her rightful position of territorial dependence. He asks, "is it to be tolerated 'that, under this name of non-intervention, there 'should be the most effectual intervention against 'the South? That while slaveholders, with their 'property, had been kept out, and an adverse decision was inevitable, the people should have been 'invited and encouraged to establish an organic law 'of perpetual exclusion, and stamp it on vast regions 'of uninhabited space; and that such process is to 'be repeated as often as necessary for our perpetual 'disfranchisement? Sir, it is a gross outrage on the 'South. The whole policy, its recommendations 'and defences, should be scorned and repudiated by 'every slaveholding State."

Mr. T. B. King, the agent of the Government, says: "I declare all assertions and insinuations 'that I was secretly instructed to, or that I did in 'any way attempt to influence the people of California to exclude slavery from their territory, to 'be without foundation." He is himself a resident of a slaveholding State, and represents the convention to have been composed of eleven members originally from the free States, and twenty-six from slaveholding States and places south of the Missouri compromise—how fitting agents and conspirators were these for a southern President to employ to subvert southern rights and southern interests! The eloquent Virginian says, "but for 'General Taylor I have respect and kindness; I do 'not in fact hold him responsible for the action and 'policy of that message. He is, I believe, an 'honest, brave old soldier—his desire to give peace 'to an agitated country and to allay alarming sectional animosities, have been made subservient 'to a policy of insidious disfranchisement and exclusion of the people of the slaveholding States." And he then makes a pathetic appeal to the old soldier as a native of that State, the mother of heroes and statesmen, and as a citizen of the South, "not to trample on the rights of her sons—to rebuke the mad fanaticism and grasping power of 'the North, and illustrate his administration with 'a glory that, through the vista of time will be 'surpassed only by that of Washington."

Sir, if the crisis must come, we may rejoice that a man, too, has come fit to meet the crisis. We have now a President who knows no North, no South; who is satisfied that the people and their representatives shall make the laws, and who means himself to execute them. We have a President *nec corrumpere, nec corrumpi*, who cannot be bought and who will not sell; who cannot be enticed by flattery, nor forced by violence from his firm purpose to support the Constitution, to preserve the Union, to maintain peace at home and peace abroad.

Let General Taylor remain true to himself and consistent with his established noble character—let him be faithful to the people and to the whole country, and he will secure a blessing that will outlive "the rapture of the strife of the earthquake voice of victory—a boon that will survive all civil and all military glory—that consciousness of right which will support and cheer him in the trials of this world, and lend him the strong wings of Hope in his passage to a higher and better sphere. The eyes and the hopes of the people are upon him; may Heaven make him its instrument for good to the country, to humanity, to the world.

Extract from vol. ix. of Dane's Digest of American Law.

"As after the lapse of forty-three years, some for the first time claim the ordinance of July 13th, 1787, as a Virginia production, in substance Mr. Jefferson's, it is material to compare it with his plan or resolve (not ordinance) of April, 1784, in order to show how very groundless the assertion of Senator Benton is, that the ordinance of 1787 was chiefly copied from his plan. To those who make the comparison, not a word need be said to refute his assertion, on the face of them the difference is so visible and essential. But thousands read his speeches, extensively published, where one makes this comparison. It is surprising, at this late day, that this claim is made for Virginia, never made by herself.

"As but few possess the Journals of the old Congress, in which Mr. Jefferson's plan of 1784, and the ordinance of 1787, framed by the author, (Nathan Dane,) are recorded, it is proper to point out the material difference between them.

"1st. The plan of 1784 is contained in two pages and a half; the ordinance of 1787 in eight pages.

"2d. The first page in the plan or resolve of 1784 is entirely omitted in the ordinance of 1787.

"3d. From the remaining page and a half of the plan, there appears to be transferred to the ordinance, in substance, these provisions, to wit: 1st. The said territory, and the States which may be formed therein, shall forever remain a part of this confederacy of the United States of America, subject to the articles of confederation. 2d. To all the acts and ordinances of the United States in Congress assembled conformable thereto. 3d. The inhabitants and settlers in the said territory shall be subject to pay their part of the Federal debts, contracted or to be contracted, to be apportioned on them by Congress according to the same rule and measure by apportionments thereof as shall be made on other States. 4th. The legislature of those districts or new States shall never interfere with the primary disposal of the soil by the United States in Congress assembled; nor with any regulation Congress may find necessary for securing the title in such soil to the *bona fide* purchasers. 5th. No tax shall be imposed on lands the property of the United States. 6th. In no case shall non-residents be taxed higher than residents.

"And in no case shall non-resident proprietors be taxed higher than residents."

"It will be observed that provisions 4, 5, and 6, which some now view as oppressive to the West, were taken from Mr. Jefferson's plan. The residue of the ordinance of '87 consists of two descriptions; one *original*, as the provisions to prevent legislatures enacting laws to impair contracts previously made—to secure to the Indians their rights and property—part of the titles to property made more purely republican, and more completely divested of feudality than any other titles in the Union were in July, 1787. The *temporory* organization was new; no part of it was in the plan of '84. The other description was selected mainly from the constitution and laws of Massachusetts, as any one may see who knows what American law was in '87; as, first: Titles to property, by will, by deed, by descent, and by delivery, cited *verbatim* in the 7th volume of this abridgment, pages 389-390. Here it may be observed, that title to lands once taking root are important, as they are usually *permanent*. In this case they were planted in 400,000 square miles of territory, and took root as was intended. Second: All the *fundamental, perpetual articles of compact*, except as below; as 1st, securing forever religious liberty; 2d, the essential parts of a bill of rights, declaring that religion, morality, and knowledge, being necessary to good government and the happiness of mankind, schools and the means of education, shall forever be encouraged. These selections from the code of Massachusetts, as also the titles to property, have created for her an extensive and lasting influence in the West, and of the most republican, liberal, and beneficial kind.

"The organization providing officers to select or make, to decide on and execute laws, being *temporary*, was not deemed an important part of the ordinance of '87. Charles Pinckney assisted in striking out a part of this in 1786.

"The sixth article of compact—the slave article—is imperfectly understood. Its history is: In 1784 a committee, consisting of Mr. Jefferson, Mr. Chase, and Mr. Howell, reported it as a part of the plan of 1784. This Congress struck out; only two members south of Pennsylvania supported it; all north of Maryland present voted to preserve it, so as to exclude slavery. It was imperfect; first, as it admitted slavery till the year 1800; second, it admitted slavery in very considerable parts of the territory forever, as will appear on a critical examination, especially in the parts owned for ages by French, Canadian, and other inhabitants, as their property, provided for only in the ordinance of '87. In this ordinance slavery is excluded from its date, and forever from every part of the whole "territory of the United States, northwest of the river Ohio," over all which the ordinance established government.

"The amended slave article (as in the ordinance of '87 was added on the author's motion, as the journals show) was not reported.

"In the said 7th volume, published in 1824, full credit is given to Mr. Jefferson and Mr. King, on account of their slave article, too limited—amended in July '87, by extending the ordinance of that date, to the slave article in it, over the whole territory, and to take effect from that date. In 1802, the Indian article was made a fundamental part of a southern compact. The provision as to impairing contracts was afterwards adopted into the Constitution of the United States, also into the several State constitutions, and after forty years' experience, into that of Virginia.

"In the great Missouri debate, in 1820, &c., one southern member, at least, viewed this ordinance as a northern usurpation; especially, as to the six articles of compact. Mr. B., in 1830, claims it as an honor to Virginia and Mr. Jefferson. Col. Carrington, of Virginia, as chairman of the committee *pro forma*, reported the ordinance, but formed no part of it. Of late years this ordinance has been made a subject of particular importance, as proving the authors of it have afforded essential means in promoting the prosperity and rapid growth of the West. It was found in the great Missouri debate, the southern attempt to run it down would not do. As a western Senator said, in that debate in Congress, it had been the cloud by day and a pillar of fire by night, in settling the country. Others, to the same purpose. On this and some other discoveries, this northern usurpation, as Charles Pinckney viewed it, is now claimed as a southern production, to prove southern friendship to the West; also to prove even in '87 the East did nothing in building up the West. In this point of view, the East will not readily yield its just claim in that business—a claim not denied for forty years and more.

"On the whole, if there be any praise or any blame in this ordinance—especially in the titles to property, and in the *permanent* parts, so the most important—it belongs to Massachusetts, as one of her members formed it, and furnished the matter, with the exceptions following: First, he was assisted, in the committee of '86, in the *temporary* organization, almost solely by Mr. Charles Pinck-

ney, who did so little he felt himself at liberty to condemn this ordinance in that debate. Secondly, the author took from Mr. Jefferson's resolve of '84, in substance, the said six provisions in the fourth article of compact as above stated. Thirdly, he took the words of the slave article from Mr. King's motion, made in 1785, and extended its operation, as to time and extent of territory, as is above mentioned. As to matter, his invention furnished the provisions respecting impairing contracts and the Indian security, and some other smaller matters; the residue, no doubt, he selected from existing laws, &c. In regard to the *matter* of this note, it is a portion of American law, properly and conveniently placed in this appendix. The *particular form* of this note is in answer to many requests lately made, by members of Congress and others, to be informed respecting the formation, the detail, and authorship of this ordinance, which, in forty years, has so often restrained insolvent acts, stop-laws, and other improper legislation impairing contracts."

Printed at the Congressional Globe Office.

H106 79546

FEB 78
N. MANCHESTER,

LIBRARY OF CONGRESS
0 017 064 127 9